

1  
2  
3  
4  
5  
6  
7  
8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**  
10

11 JUNAN CHEN, KELLY YAO WANG,  
12 CHANGSHUANG WANG,  
13 JINSHUANG LIU, LICHU CHEN, and  
14 WENQUEI HONG,

15 Plaintiffs,

16 v.

17 COUNTY OF SANTA BARBARA;  
18 SANTA BARBARA COUNTY  
19 SHERIFF'S DEPARTMENT; CAPRI  
20 APARTMENTS AT ISLA VISTA;  
21 ASSET CAMPUS HOUSING, and  
22 DOES 1 through 200, Inclusive,

23 Defendants.

Case No. 2:15-CV-01509- JFW (JEMx)  
[The Hon. John F. Walter]

**[PROPOSED]  
ORDER ON MOTION BY  
DEFENDANT HI DESERT MOBILE  
HOME PARK L.P. TO DISMISS  
PLAINTIFFS' FIRST AMENDED  
COMPLAINT FILED MAY 20, 2015**

Date: June 29, 2015  
Time: 1:30 p.m.  
Ctrm, 16

Trial Date: Not Set

24 TO ALL PARTIES AND TO THEIR RESPECTIVE ATTORNEYS OF RECORD:

25 The motion of defendant HI DESERT MOBILE HOME PARK LP  
26 (erroneously sued as "CAPRI APARTMENTS AT ISLA VISTA") ("defendant  
27 Capri") to dismiss portions of the first amended complaint of Plaintiffs JUNAN  
28 CHEN, KELLY YAO WANG, HANGSHUANG WANG, JINSHUANG LIU,  
LICHU CHEN, and WENQUEI HONG ("plaintiffs"), came on regularly for hearing  
before this Court as duly noticed.

1 The Court has read and considered all of the papers filed in support of, and in  
 2 opposition to, this motion. The Court has heard and considered the arguments of  
 3 counsel at the time of the hearing. Good cause appearing, this Court makes the  
 4 following orders:

5 1. IT IS ORDERED THAT the second cause of action for negligence in  
 6 the first amended complaint of plaintiffs shall be dismissed as it fails to state a claim  
 7 upon which relief can be granted as against defendant Capri. (Fed.R.Civ.P.  
 8 12(b)(6)). The Court finds that plaintiffs' first amended complaint does not allege a  
 9 plausible claim for relief against defendant Capri. Ashcroft v. Iqbal, 556 U.S. 662,  
 10 677-678, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009). Plaintiff's allegations are  
 11 insufficient to support the imposition of a duty upon defendant Capri to protect  
 12 plaintiffs' decedents from Rodgers' criminal acts. Barber v. Chang, 151 Cal. App.  
 13 4th 1456, 1464 (2007). Plaintiffs' allegations concerning defendant Capri's actual  
 14 knowledge of Rodger's propensity for violence are conclusory and not support by  
 15 sufficient factual allegations. Margaret W. v. Kelley R., 139 Cal. App. 4th 141, 156  
 16 (2006); Andrews v. Mobile Aire Estates, 125 Cal.App.4th 578, 596 (2005).

17  
 18 DATED: \_\_\_\_\_, 2015

19 By: \_\_\_\_\_

20 The Honorable John F. Walter  
 21 U.S. District Court Judge  
 22  
 23  
 24  
 25  
 26  
 27  
 28

///

///

///

///

///

///

///

///

1 Submitted By:

2 Eugene J. Egan (State Bar No. 130108)

*eje@manningllp.com*

3 Christopher A. Kanjo (State Bar No. 128015)

*cak@manningllp.com*

4 **MANNING & KASS**

**ELLROD, RAMIREZ, TRESTER LLP**

5 801 S. Figueroa St, 15<sup>th</sup> Floor

Los Angeles, California 90017-3012

6 Telephone: (213) 624-6900

Facsimile: (213) 624-6999

7 Attorneys for Defendant HI DESERT MOBILE HOME PARK LP (erroneously  
8 sued as "CAPRI APARTMENTS AT ISLA VISTA")

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

MANNING & KASS  
ELLROD, RAMIREZ, TRESTER LLP  
ATTORNEYS AT LAW